

NON-FEDERAL LAW ENFORCEMENT
OFFICERS**§ 10.610 Definition of a law enforcement officer.**

For purposes of this subpart, a law enforcement officer is defined as an employee of a State or local government including the governments of U.S. possessions and territories, or an employee of the United States pensioned or pensionable under sections 521-535 of title 4, District of Columbia Code, whose functions include one or more of the following:

- (a) The apprehension of persons sought for the commission of crimes, including those sought by a law enforcement agency for such commission, as well as material witnesses sought in connection with criminal cases; or
- (b) The protection or guarding of persons held for the commission of crimes or as such material witnesses; or
- (c) The prevention of the commission of crimes.

§ 10.611 Applicability.

Except as provided by 5 U.S.C. 8191 and 8192 and elsewhere in this subpart, the provisions of the Act and subparts A, B, and D through G are applicable to law enforcement officers, as defined in § 10.610.

§ 10.612 Conditions for eligibility.

(a) The benefits of the Act are available as provided in 5 U.S.C. 8191 *et seq.* and this subpart to a law enforcement officer as defined in § 10.610 and his or her survivors if the Office determines that an individual on any given occasion was—

- (1) A law enforcement officer and to have been engaged on a given occasion in the apprehension or attempted apprehension of any person:
 - (i) For the commission of a crime against the United States, or
 - (ii) Who at that time was sought by a law enforcement authority of the United States for the commission of a crime against the United States, or
 - (iii) Who at that time was sought as a material witness in a criminal proceeding instituted by the United States; or
- (2) A law enforcement officer and to have been engaged on that occasion in

protecting or guarding a person held for the commission of a crime against the United States or as a material witness in connection with such crime; or

(3) A law enforcement officer and to have been engaged on that occasion in the lawful prevention of, or lawful attempt to prevent, the commission of a crime against the United States;

and to have been on that occasion not an employee as defined in 5 U.S.C. 8101 (1) and to have sustained on that occasion a personal injury for which the United States would be required under 5 U.S.C. 8101 to pay compensation if the individual has been on that occasion an employee within the meaning of 5 U.S.C. 8101 (1) engaged in the performance of duty.

(b) The mere fact that an injury to a law enforcement officer is in some way related to the commission of a Federal crime does not in itself bring the injury within the scope of this subpart. For the purpose of this subpart, being engaged in the apprehension or attempted apprehension of a person for the commission of a crime against the United States requires that the specific criminal activity which caused the officer's response was an actual Federal crime. Further, where the actions which result in an injury to an officer are based solely on a local police matter, the later discovery (i.e., discovery after the arrest has been made) of a Federal crime or potential Federal crime does not in itself bring the injury within the meaning of 5 U.S.C. 8191. For example, coverage under this subpart would extend to an officer who responded to an armed robbery and who was shot by the suspect. (For the purpose of this example, the suspect must be illegally in possession of a firearm in violation of Federal law.) With the officer's knowledge of an armed robbery (and/or the actual viewing of a firearm in the possession of the suspect), the firearm would be both an integral part of a Federal crime and a part of the specific criminal activity to which the officer was reacting. Coverage would be extended in this situation even though the officer may not have been aware at the time that the suspect was in fact in violation of Federal law. However, coverage under this